

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1012 of 1999

in

SPECIAL CIVIL APPLICATION No 490 of 1999

For Approval and Signature:

Hon'ble ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and
MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

DEEPAK V SHUKLA

Versus

CHIEF DIVISIONAL MANAGER

Appearance:

MR RC JANI for Appellant

MR GN SHAH for Respondent

CORAM : ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and
MR.JUSTICE K.M.MEHTA

Date of decision: 26/10/1999

ORAL JUDGEMENT

Rule. Learned counsel Mr. G.N.Shah for the respondent

waives service of rule.

The appellant in this case is Karta of Agricultural Cooperative Society . The respondent herein had given permission to the society for diesel retail outlets for sale of diesel. The appellant was to sell the diesel to the members of the Cooperative Society only. The respondent herein alleged that the appellant had been selling diesel to persons other than the members of the society and the supply was, therefore, stopped. Feeling aggrieved by this action, the applicant had preferred SCA No. 490 of 1999 which came to be dismissed as withdrawn by the appellant with a view to file reply to the show cause notice .

It appears that, in the meantime, a Division Bench passed a common order in MCAs Nos. 1035 of 1999 in LPA No.444 of 1999 in SCA No.3243 of 1999 . In these circumstances, instead of filing reply to the show cause notice, the appellant has preferred the present LPA.

LPA is filed by the appellant seeking interim order pending LPA.

We have heard learned counsel for the appellant and the counsel for the respondent.

We are told that for a long time, supply of diesel has been disrupted and the appellant is put to financial loss. Learned counsel for the respondent submitted that the matter is being examined by the department and an Inquiry Commission is also appointed ,the report of which is expected.

A similar question arose before a Division Bench in MCA No. 1035 of 1999 and companion matters. The Division Bench consisting of K.G. Balakrishnan, C.J. and S.D.Dave, J. after hearing the parties, issued the following directions on July 16, 1999:

"Under the circumstances, we direct that the supply of petroleum products to the appellant society may be resumed within a period of two weeks today. The appellant shall abide by the following conditions:

- (1) Consumer pumps must execute consumer pump agreement as per the standard format. In case, it is not done within one month, they will not be

entitled to supply of petroleum products from the concerned oil company and the concerned oil company will not supply petroleum products to the consumer.

(2) The consumer pumps which are public trusts will be converted into cooperative society within two months, failing which they will not be entitled to any supplies of petroleum products and the concerned oil company will not supply petroleum products to the consumer pump till such conversion takes place.

(3) The consumer pumps will give an undertaking to this Court to the following effect:

(i) They will take only genuine agriculturists, farmers as members and petroleum products will be sold to them only.

(ii) The consumer pump will, if required by the concerned oil company, change the lay out format/ get up of the consumer pump, if so desired by the concerned oil company, to distinguish it from a retail outlet.

(4) In the event of breach of any of the conditions, concerned consumer pump will not be entitled to the supply of petroleum products. The concerned oil company will not supply petroleum products pending an inquiry into the breach of the conditions committed by the consumer pumps.

(5) Those consumer pumps which, though sanctioned, have not been commissioned, will be commissioned by the concerned oil company after the receipt of the approval from the appropriate authority.

The appellant shall give the aforesaid undertaking to this Court, that is, in favour of Registrar of this Court and the same shall be furnished by the appellant within two weeks hereof.

Rule is made absolute accordingly. No costs. Direct service permitted."

It is not disputed before us that the case on hand is also similar to the above matters. In our opinion, therefore, the above directions must govern the present case as well. Accordingly, the respondents are directed

to supply petroleum products to the applicant within two months from today on the same terms and conditions as mentioned in the order dated July 16, 1999 as also furnishing undertaking in the above terms within a period of three months hereof.

Rule is accordingly made absolute . No costs. Liberty to apply in case of difficulty.

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